

EXHIBIT 9

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
(SOUTHERN DIVISION - SANTA ANA)

NETLIST, INC,)	CASE NO: 8:20-CV-00993-MCS-ADSx
)	
Plaintiff,)	CIVIL
)	
vs.)	Santa Ana, California
)	
SAMSUNG ELECTRONICS CO, LTD,)	Tuesday, July 27, 2021
)	
<u>Defendant.</u>)	

INFORMAL DISCOVERY CONFERENCE

BEFORE THE HONORABLE AUTUMN D. SPAETH,
UNITED STATES MAGISTRATE JUDGE

APPEARANCES: SEE PAGE 2

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1 information about hits -- hit list responses and why don't -- I
2 mean I understand you weren't ordered but I do also understand
3 that there were discussions about hit counts and that sort of
4 thing. So why don't I have that information?

5 **MR. LEE:** Yes, Your Honor, I can address this issue
6 and this is Christopher Lee, I apologize, I keep forgetting to
7 identify myself.

8 But I think the reason that process (indisc.)
9 negotiation broke down, Your Honor, is because we proposed our
10 search terms in good faith thinking that, you know, both
11 parties would propose their search terms, we'd take a look at
12 them mutually and then we would do -- engage in a process of
13 horse trading to reasonably narrow the scope of documents to be
14 reviewed by both parties. And I think the issue we encountered
15 at some point was that Netlist would not disclose, and has not
16 disclosed to this day, what search terms they are using for
17 their document search. They would not disclose what custodians
18 they collected documents from. And in this situation, Your
19 Honor, I just think we felt that it was not good negotiation
20 strategy for us to (indisc.) our search terms to criticism by
21 Netlist unilaterally by providing them with hit counts when
22 they are not even giving us the most basic information of what
23 their hit counts are.

24 I do have some provisional search term numbers that
25 are -- that we've received recently, Your Honor. I can address

1 Mr. LaMagna, let's make sure that Mr. Lee is --

2 **MR. LAMAGNA:** Oh, apologies to Mr. Lee.

3 **MR. LEE:** No, Your Honor, I'm finished.

4 **MR. LAMAGNA:** Okay.

5 **THE COURT:** All right. Mr. LaMagna?

6 **MR. LAMAGNA:** Again, our production is not in
7 question here. There is no motion to compel our production,
8 there's no complaint about our production on which the parties
9 have met and conferred.

10 There is a couple of I think bending of the truth
11 there regarding our custodians and search terms.

12 We've never refused to provide custodians and search
13 terms. I agree, I have not provided a comprehensive list and I
14 apologize to Opposing Counsel. I do owe them a list of who the
15 main custodians are. As I've said, it's all of the people that
16 they've -- I've told them this on the phone. It's all of the
17 six or seven people that they've requested for depositions, as
18 well as there's a couple of additional procurement people that
19 I forget the names of on this call. I think one of them is
20 named Devin Park, one of them -- the two lawyers that are
21 involved. Everybody that we could find that was materially
22 involved with the procurement, you know, the process of
23 ordering and the process of -- or the legal side of negotiating
24 the contract with them, including the lawyers, were we pulled
25 all of their email that we could find, the whole mailbox in

1 whole and searched it. We search it using not just -- this was
2 the issue. We did not just use search terms as they are
3 proposing. We have talked to witnesses, we've had witnesses
4 help us to go through their email to identify email threads,
5 we've tried to find threads from those threads. We have used
6 words like "Samsung" and "Samsung.com" also as search terms but
7 we haven't exclusively relied on search terms.

8 And in terms of hit counts, I'm pleased to know that
9 there's 30,000 emails within -- that have the word "Netlist" on
10 them. That is consistent with the fact that we've produced
11 30,000 emails to them, Your Honor, using not the same protocol
12 but using a, shall we say more robust, searching for "Samsung"
13 or "Samsung communications" and then seeing what we could move
14 from there to make sure that we're grabbing a wider net than
15 just what that would give us. And so it doesn't surprise me
16 there's 30,000 communications. We have parties that are doing
17 hundreds of orders over multiple years. Samsung is I think one
18 of the very largest industrial companies in the world. I think
19 they're one of like the top five. Netlist is a small company.
20 This is a dispute that will have millions of dollars in
21 dispute.

22 As Mr. Masters pointed out earlier, there is a patent
23 license that is on the -- potentially at issue here that is
24 probably tens of millions of dollars if not more. Maybe
25 it's -- it could be, you know, a nine-figure number. I don't

CERTIFICATION

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.



Signed

April 24, 2022

Dated

TONI HUDSON, TRANSCRIBER